

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RALPH BUCK PHILLIPS,

Plaintiff,

v.

**9:12-CV-59
(FJS/ATB)**

DALE ARTUS, Superintendent, sued in personal and official capacity; T. POURPOSE, Correctional Officer, sued in personal and official capacity; R. MOSELY, Correctional Officer, sued in personal and official capacity; C. TRUDEAU, Correctional Officer, sued in personal and official capacity; D. AMO, Food Services Administrator, sued in personal and official capacity; JOHN DOE, Head Cook, sued in personal and official capacity; ROBERT SHATTINGER, Director of Nutritional Services, sued in personal and official capacity; T. BROUSSEAU, I.G.R.C. Supervisor, sued in personal and official capacity; and K. BELLAMY, I.G.P. Director, sued in personal and official capacity,

Defendants.

APPEARANCES

OF COUNSEL

RALPH BUCK PHILLIPS

06-B-3437

Upstate Correctional Facility

P. O. Box 2001

Malone, New York 12953

Plaintiff *pro se*

**OFFICE OF THE NEW YORK STATE
ATTORNEY GENERAL**

The Capitol

Albany, New York 12224

Attorneys for Defendants

KRISTEN M. QUARESIMO, AAG

KELLY L. MUNKWITZ, AAG

SCULLIN, Senior Judge

ORDER

Currently before the Court is Magistrate Judge Baxter's November 12, 2013 Report-Recommendation, in which he recommended that this Court grant Defendants' motion to dismiss with prejudice pursuant to Federal Rules of Civil Procedure 37 and 41(b). *See* Dkt. 46. The parties did not file any objections to this recommendation.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Baxter's November 12, 2013 Report-Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Baxter's November 12, 2013 Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

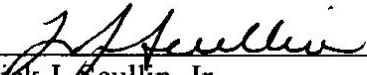
ORDERS that Defendants' motion to dismiss Plaintiff's complaint in its entirety with prejudice is **GRANTED** pursuant to Rules 37 and 41(b) of the Federal Rules of Civil Procedure; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendants and close this case; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: December 6, 2013
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge